

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LISA NOVELLE THOMPSON,

Plaintiff,

v.

KILOLO KIJAKAZI,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:21-cv-00815-HBK

ORDER GRANTING CORRECTED JOINT
MOTION TO REMAND UNDER SENTENCE
FOUR OF 42 U.S.C. § 405(g), REVERSING
FINAL DECISION AND REMANDING
CASE¹

(Doc. No. 18)

ORDER FINDING MOTION FOR
SUMMARY JUDGMENT MOOT

(Doc. No. 13)

Pending before the Court is the Parties' Corrected² Joint Motion to Remand filed July 14, 2022. (Doc. No. 18). Plaintiff Lisa Novelle Thompson and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision.

¹ Both parties have consented to the jurisdiction of a magistrate judge, in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 10).

² An earlier filed motion for remand (Doc. No. 17) had incorrectly identified the first name of the Plaintiff and was mooted by the parties filing of the corrected motion.

1 *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney’s fees under
2 the Equal Access to Justice Act and calculating deadline using date of final judgment). The
3 *Melkonyan* Court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –
4 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a
5 judgment affirming, modifying, or reversing the decision of the Secretary, with or without
6 resetting the cause for a rehearing.” *Id.* at 98 (other citations omitted).

7 The Court grants the Parties’ motion to remand under sentence four and reverses the
8 Commissioner’s final decision. As agreed by the Parties, upon remand, the Administrative Law
9 Judge should “re-evaluate the evidence of record.” (Doc. No. 18 at 1).

10 Accordingly, it is **ORDERED**:

- 11 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court REVERSES the
12 Commissioner’s decision and REMANDS this case back to the Commissioner of
13 Social Security for further proceedings consistent with this Order.
- 14 2. An application for attorney fees may be filed by separate motion.
- 15 3. Plaintiff’s motion for summary judgment (Doc. No. 13) is MOOT.
- 16 4. The Clerk shall enter judgment in favor of Plaintiff, terminate any pending motions
17 and deadlines, and close this case.

18
19 Dated: July 15, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE